

REMARKS

Favorable reconsideration of the application is respectfully requested in light of the remarks to follow. Claims 22-33 and 52-60 are pending.

Applicants acknowledge, with appreciation, the Examiner's allowance of Claims 22-33. Applicants do contend, however, that the remaining Claims 52-60 are allowable as well, as will be explained.

Claims 52 and 55-58 were rejected under 35 U.S.C. 103(a) over WO 93/01665 ("Breedon"); Claims 53-54 were rejected under §103(a) over Breedon in view of "Fischer"; and Claims 59-60 were rejected over Breedon in view of "Kawamoto". Applicants respectfully submit that all of these claims are patentable over the cited references for at least the following reasons:

Considering independent Claim 52, it is submitted that Breedon does not render obvious a wireless transmission system that includes a fixed hub connected to an information source, the fixed hub provided with a wide angle beam antenna; a mobile terminal provided with a narrow beam antenna; in which content from the information source is downloaded to the mobile terminal via the fixed hub only within a small localized area of the fixed hub.

The Office Action recognized that Breedon does not disclose a mobile station with a narrow beam antenna, but relied upon Official Notice, asserting the following:

"... it is well known in the art that a mobile station is usually provided with narrow beam antenna so that the user can have a direct (path) connection with the base station and would have been obvious and well within the level of a person of ordinary skill in the art to provide a narrow beam with the mobile station."
(emphasis added)

Applicants respectfully traverse the Examiner's official notice reproduced above. It is respectfully submitted that the Examiner's statement concerning mobile terminals usually

employing narrow beam antennas is erroneous. To the knowledge of Applicants' representative, a mobile station is usually, and possibly always, provided with a wide beam antenna, i.e., an omni-directional antenna, to communicate with base stations. That is, a mobile station is not usually provided with a narrow beam antenna for this purpose. The Examiner has not cited any reference that discloses a mobile terminal with a narrow beam antenna that transmits/receives signals containing content from a base station. Only the Applicants have taught this concept.

In accordance with M.P.E.P. 2144.03(C), "If Applicant challenges a factual assertion as not properly Officially Noticed or not based upon common knowledge, the Examiner must support his finding with adequate evidence." For at least the reason discussed above, Applicant hereby challenges the Examiner's factual assertion regarding mobile terminals usually being provided with a narrow beam antenna. It is respectfully requested that the Examiner provide a prior art reference that supports the Examiner's opinion.

Further, M.P.E.P. 2144.03(A) states,

"While 'official notice' may be relied on, these circumstances should be **rare** when an application is under final rejection or action under 37 C.F.R. 1.113. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well known ... It is **never** appropriate to rely solely upon 'common knowledge' in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based." (emphasis added)

As the Applicants hereby traverse the Examiner's Official Notice, the Examiner is requested, if the rejection is maintained, to provide a reference supporting this contention, in accordance with the Official Notice provisions of M.P.E.P §2144.03.

Accordingly, since Breeden does not disclose or suggest an essential element of Claim 52 as discussed above, and since no reference has been provided that teaches this feature as properly

combinable into the Breeden system, Claim 52 cannot be considered obvious over Breeden under §103.

Claims 53-60 are patentable based at least upon their dependencies from Claim 52.

In addition, by way of example, Claim 53 claims that the fixed hub is provided with a kidney shaped beam in cross section (to communicate signals with mobile terminals). The Office Action relied upon the Fischer patent (U.S. Patent No. 6,360,075) for disclosing a mobile terminal and a central hub that utilizes a cardioid antenna, asserting that the cardioid antenna has a kidney shaped cross section. The Examiner's assertion is misplaced, however, in that no mobile terminals are disclosed: see Fig. 1, subscribers 14 are all fixed stations. In addition, a cardioid antenna is known to produce a heart-shaped radiation pattern that is more concentrated in one direction, to allow a longer maximum range. The concentration of energy in one direction reduces the coverage in the opposite direction. This type of antenna is different than the kidney-shaped beam antenna claimed, which has two main lobes separated by a depression.

Moreover, Claim 54 claims that the antenna is mounted on a ceiling and the kidney shaped beam has a local minimum level in the cross section in a direction opposing the ceiling. The Examiner did not cite any reference disclosing this feature, but instead asserted that the claim merely adds the intention of using the system in a particular environment. This rejection is misguided in that the kidney-shaped beam antenna is only one component of the overall system, and positioning it in a specific location and orientation with respect to other components *changes the structure of the system*. That is, such positioning and orientation is not merely "intended use" and must be considered a limitation of the claim.

Conclusion

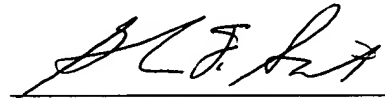
In light of the foregoing, entry of this response, and the allowance of this application with Claims 22-33 and 52-60 are respectfully solicited.

The above statements concerning the disclosures in the cited references represent the present opinion of Applicant's representative and, in the event that the Examiner disagrees, Applicant's representative respectfully requests the Examiner specifically indicate those portions of the reference providing the basis for a contrary view.

In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicant's representative at the telephone number written below.

Respectfully submitted,
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